HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No. 5093 of 1993

Between:

The Divisional Forest Officer,

Warangal South Division,

Warangal Dist. .. Petitioner

AND

The Court of the Subordinate Judge,

Warangal and others. ..Respondents.

Counsel for the Petitioner: Government Pleader for

Forests.

Counsel for Respondent No.1: None

Counsel for Respondent Nos.

2 and 3. : Sri C.Subba Rao

Counsel for Respondent No.4: Govt. Pleader for Revenue

Dated: February 21, 2006

ORDER:

This petition is directed against the Judgment and decree dated January 18, 1988 passed by Ist Additional Subordinate Judge, Warangal in O.S.No. 139 of 1981, whereby he directed that the plaintiffs (respondent Nos. 2 and 3 herein) shall not be evicted from the land in their possession without following the due process of law.

The principal ground on which the petitioner has challenged the impugned Judgment and decree is that in terms of Section 5 of the Andhra Pradesh Forest Act, 1967 the suit filed by non-petitioners 2 and 3 is not maintainable.

Learned Government Pleader invited my attention to order dated June 25, 1987 vide which this court allowed Writ Petition No. 5889 of 1982 filed by the petitioner against the interlocutory order passed by the trial Court in I.A.
No. 700 of 1981. He pointed out that while allowing that petition, the Court had unequivocally held that in view of the bar contained under Section 5 of 1967 Act, the suit filed by non-petitioners 2 and 3 is not maintainable.

I have gone through order dated June 25, 1987 passed in Writ Petition No. 5889 of 1982.

I am of the opinion that in the face of that order, the learned Ist Additional Subordinate Judge, Warangal could not have decreed the suit filed by non-petitioner Nos. 2 and 3 and that too ignoring the mandate of Section 5 of 1967 Act. It appears to me that the attention of learned
Ist Additional Subordinate Judge, Warangal was not drawn to order dated June, 25, 1987 passed in Writ Petition
No. 5889 of 1982 and this could be the only explicable reason why the impugned Judgment and decree was passed.

Be that as it may, in view of the finding recorded in order dated June 25, 1987 passed in Writ Petition No. 5889 of 1982, the Judgment and decree dated January 18, 1988 passed by Ist Additional Subordinate Judge, Warangal in O.S.No. 139 of 1981 are liable to be set aside. Ordered accordingly.

The writ petition is allowed in the manner indicated above.

G.S.SINGHVI, C.J.

GRR